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79-0253/85-3077
85-3291 No.

FILED
AUG 6 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1986

ANTONIO MUINA, M.D., AND J.A. MUINA

Petitioners

vs.

ED ARCHER, BILL CORBIN, BRUCE COLLINS, LARRY SMITH, FOURTEENTH JUDICIAL CIRCUIT COURT, MITTIE AND FRANK HOOD,

Respondents

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ANTONIO MUINA, M.D.
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QUESTIONS PRESENTED

1. Can the lower courts enter a Summary Judgement on the strength of a (false) allegation that Plaintiff/Petitioner failed to respond to an untimely ill made Bill of Admissions which was filed during the time the Respondent was in DEFAULT?(When the record clearly shows that the Petitioner did in fact respond.)

2. Did the lower courts abuse their discretion and the established cases by not granting appellants leave to amend their compalint?

3. Can the Clerk of the lower Court refuse to transfer the record to the Appellate Court?

4. Can the lower courts award attorneys fees in a Civil Rights Action where its' disposition of the case hinged on a statutory immunity given to a

Sheriff, and furthermore where the court did not allow any litigation between the parties?

5. Can the lower Courts award attorneys fees against the other plaintiff in said case, when all instruments show clear merits and justificaiton for having filed the instant Civil Rights suit?

6. Can the lower Court enter a Summary Judgement against a Defendant when he is living more than two-thousand (2,000) miles away in another state and due to the fact that the Defendnat was unalbe to attend an Oral Deposition?

7. Can a Circuit Judge deny a Defendnat the right to review the medical records & charts of the Plaintiff who has sued him for malpractic?

8. Can a Circuit Judge, who is known to be prejudiced against the De-

fendant, refuse to disqualify himself? And when said refusal was based on a statute that was later ruled unconstitutional by the Supreme Court of Florida?

9. Can a lower court judge ignore the fact that a Defendant finds it impossible to appear on a certain date for trial, and proceed with the trial without the Defendant being present, fail to furnish the Defendant with a list of witnesses and refuse to allow the Defendant a copy of the transcript of the trial?

10. Can the lower court refuse a Defendant DISCOVERY from the onset of a suit throughout the proceedings?

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Statutes:

4th, 5th and 14th AMMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES

No.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1986

ANTONIO MUINA, M.D., AND J. A. MUINA

Petitioners

vs.

ED ARCHER, BILL CORBIN, BRUCE COLLINS, LARRY SMITH, FOURTEENTH JUDICIAL CIRCUIT COURT, MITTIE AND FRANK HOOD,

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PETITION FOR WRIT OF CERTIORARI
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32410

Antonio Muina, M.D. and J.A. Muina hereby petitions that a Writ of Certiorari

issued to review the judgment and opinion of the United States Court of Appeals for the Eleventh Circuit entered May 8, 1986.

OPINIONS BELOW

The judgment order of the United States Court of Appeals for the Eleventh Circuit, is set forth in the appendix on page App. 1, with opinion printed in the appendix on pages App. 2-3.

JURISDICTION

The Eleventh Circuit's judgment was entered on May 8, 1986. The jurisdiction of this Court is invoked under 28 U.S.C. §1254 (1) (3) and U.S. Supreme Court Rule 17 (a) (c).

STATUTES INVOLVED

The 4th, 5th and 14th AMMENDMENTS of THE CONSTITUTION OF THE UNITED STATES, and Federal Rul. Civ.Pro. 26,36,55 and 60.

FEDERAL JURISDICTION AT THE DISTRICT COURT LEVEL

Jurisdiction at the District Court level was invoked under 28, 1331, 1332 1334, 1443, U.S.C. 42-1981, 1983, 1985, and 1986.

STATEMENT OF THE CASE

This case was filed in the United States District Court for the Northern District of Florida, Panama City Division. The Honorable William Stafford and Maurice Paul presiding. A judgement adverse to petitioners was reached there in violation of long standing Federal law. The same was advanced to the Eleventh Circuit Court of Appeals who affirm the same in the absence of an opinion or explanation even though said ruling is in controversy with a number of rulings of this Supreme Court of the land and established precedence on said issues.

For the purpose of this certiorari,

historically, the facts to support these individual controlling points of law of the case are now in controversy.

The lower court and the Circuit Court of Appeals affirmed a judgement in support of Defendant/Respondent Bill Corbin on the strength that the appellant failed to respond to a bill of admission that had been filed during the time that said Defendant/Respondent was in default. Said default resulted when said Corbin failed to respond and file his answer timely. On June 5, 1980 a default was entered against said Corbin. On 6-13-80 Defendnat/Respondent Corbin moved to set aside the default. Included in the long pleadings of 6-13-80, Corbin again demonstrated his bad faith when he swore he had received copies of the amended complaint via U.S. Mail when in fact they were served to him via U.S. Marshall.

Defendant/Respondent CORBIN further stated in his pleadings that his reason for not filing his answer(which resulted in his being in default) was " an oversight". CORBIN continued to file pleadings during the time he was in default, thereby violating Fla. Rule of Civil Procedure 1.500 which clearly states:(c) A party may plead or otherwise defend at any time before default is entered.

On June 17, 1980, Defendant CORBIN filed a support to his Motion stating he had obtained an attorney, said Joseph Shields, to represent him.. However, Mr. Shields never filed any pleadings in CORBIN's behalf. And although he was in default, CORBIN continued to file pleadings himself.

On July 7, 1980, the Court issued a discovery limitation, Order that limited the date in which discovefydate

had to be completed to October 9, 1980. On September 4, 1980, said Defendant/Respondent CORBIN filed a Bill of Admission without first obtaining relief from the prior entered default. The default was lifted five (5) months after it was entered, and two (2) months after CORBIN FILED his Bill of Admission, on Nov. 21, 1980. Throughout the proceeding, the lower court refused (super emphasis added) to alter said discovery limitation Order and repeatedly it held and denied further discovery on the strength of said prior expiring date., and this being as late as August 24, 1984!!!

The second issue involved, is the fact that the lower court DENIED and the appellate court affirmed appellants request and motion for leave to present amended complaint, based on new deplorable acts that had been performed by their respondents. The District Court

had stayed the case awaiting the determination of the State Appelate Court, the action now at bar stems from Plaintiff/Petitioner filing this Civil Right action to defend himself against a state court malpractice case that had been filed in bad faith.

Initially Defendant Corbin sought an action for damages in excess of $100,000.00(one hundred thousand) against the Plaintiff/Petitioner for the U.S. Marshall having erroneously served a like named member of the community with the summons of the past Civil Right suit, said suit ended when the lower court did not allow the Plaintiff ANTONIO MUINA, M.D. to represent himself pro se after having discharged their Montana attorney for his inability to asociate himself with local counsel as required by the local fules of the court. Then Defendant

filed a malpractice suit against the Plaintiff/Petitioner ANTONIO MUINA, M.D. WHEREIN was alleged that Dr. Muina willfully and maliciously purposely mistreated Defendant/Respondent Hood. The fraudulent allegations were so preposterous there is no possible way this case could have advanced anywhere (except the garbage can) except for the bias of the lower courts including the issuing of outlandish DISCOVERY ORDERS that in fact commanded the Plaintiff/Petitioner ANTONIO MUINA, M.D to respond to whatever interrogatories Mr. Corbin propounded against Dr. MUINA Prior to them being created!!! And further commanding that if DR MUINA did not respond to any and all the interrogatories JUDGE SMITH would deny DR MUINA all his pleadings. The interrogatories required of DR. MUINA within a thirty day(30) period was IN THE HUNDREDS- clearly violating

the Florida Rules of Civil Procedure

1.340: (a)"INITIAL INTERROGATORIES SHALL NOT EXCEED TWENTY-FIVE (25), including all subparts"

Without a doubt Judge Larry Smith of the Fourteenth Judicial Circuit Courrt knew this rule, knew the abuse and yet threatened DR. MUINA if he did not comply he would deny all his pleadings. This is only one small example of the bias of the lower courts against DR. MUINA. WITHOUTA DOUBT DR. MUINA HAS BEEN DENIED DUE PROCESS OF LAW as well as MANY OF HIS CONSTITUTIONAL RIGHTS. Making it virtually impossible for DR. MUINA to defend himself at any level. As a result the lower State Court issued a default judgment against the now Plaintiff(DR.MUINA) without the Defendant(then Plaintiff) need of seeking a motion to compel discovery. The State Court ignored Plaintiffs desperate plea for Protective Order. This was further complicated by the clerks office of the lower court (bias)

refusing to file his notices of appeals, and by the issuing of a Writ of Execution while a motion for rehearing was pending aimed at the lower court default judgement. Plaintiff J.A. MUINA became involved when the Sheriff, Upon executing against Plaintiff ANTONIO MUINA, M.D. property (including his only automobile) erroneously took a number of law books that belonged to him (J. A. MUINA). Thus because the State Appellate Court (after many months) had vacated the lower court judgement as having been entered at a time the lower court lacked jurisdiction under Fla. law to so act, due to a timely interlocutory appeal having been previously filed, the lower Federal Court, on October 1980, stayed the case until February 2, 1982, when a new judgement was issued at the State Court level against Plaintiff DR. MUINA, solely on the

strength that the Plaintiff DR.MUINA sought leave to ammend complaint based on the fact that he had met all hurdles of the procedure and the dismissal of the State Appellate Court system resulted as a direct result of the clerk's willful refusal to transfer the record to the State Appellate Court in an effort to avoid a merit reaching determination that could have only been detrimental to their case before the Federal Court.

The third and fourth issues deal with the entry of attorney fees judgment in support of Defendant CORBIN against Appellant J.A. MUINA asnd ANTONIO MUINA. The facts that clearly contradict such award in the first instance, appellant J.A. MUINA was not allowed to come in controversy against Defendant CORBIN, the lower Federal Court repeatedly and emphatically recognized that said litigant's sole claim was for wrongful levy, was

statutorily immune under Fla. law and that against Defendant Sheriff Murphy. In the case of Plaintiff DR. MUINA, the lower Court also entered such attorney fees award, even though affidavit and response against the Bills of Admission existed in the record, the lower Court without finding that the action was without basis and meritless, entered such award. See Fla. Rul. Cil. Pro. 1.500

The final issue is that action had to fail against Defendant ARCHER, because the Plaintiff did not prevail at the state court level. This, even though the complaint pleaded that the only reason he did not prevail was a result of the bad faith of the Defendants and their scheme to avoid a merit reaching determination against their person.

As such there exist plenty of Federal precedent that are in controversy

with the ruling of the lower courts including precedent from this high court.

LIST OF PARTIES TO THE PROCEEDINGS

1. Larry Smith
2. Bruce Collins, Clerk
3. 14th Judicial Circuit Court and Clerk's Office
4. Mittie Jean Hood and Frank Hood
5. Earl (Ed) Archer
6. Bill Corbin

REASONS FOR GRANTING THE WRIT

The lower courts affirmed a Summary judgment that was entered against DR. ANTONIO MUINA, on the strength of an alledged failure to respond to a Bill of Admission that was filed by CORBIN during the time he was in DEFAULT. See App._____ DEFAULT ENTERED 6-5-80 Bill of Admissions filed by CORBIN 9-4-80. The lower courts upheld that a DEFAULTING PARTY HAD A RIGHT TO FILE A BILL OF ADMISSION WHILE HE WAS IN DEFAULT. The lower court set a DISCO-

VERY LIMITATION ORDER that had a time limit up to when discovery could be taken. The lower court refused to abandon said ORDER dated August 29, 1984(see app. pg.)denying the ability of Defendant Archer to take Bills of Admission, while denying all Motion to Compel Discovery that were taken after said Discovery limitation ORDER had expired. Because of the uncertainty of the lower courts prior action, Plaintiffs responded to said untimely and ill made Bill of Admissions. However, the lower court IGNORED SAID RESPONSE and misquoted the facts on 6-14-84 and stated that Plaintiff made no response to said request and therefore the matter contained in them were deemed admited!!!SEE, Collins v.Watts 74 FRD 443 Covington Industires v. Resentine 629 f 2d 730, Varnes v. Glass Blower Asso. 674 F 2d 1365, Caribe Hydro Trailer 65 FRD

46, Nishimatu Construction Co. LTD. v. Houston National Bank 515 f 2d 1200, Transworld Airlines Inc. v. Hughes,SNY 38 FRD 499, 501 affd 2 Circ., 449 F 2d 51, Reverse on other gounds 405 U.S. 915, 92 s. Ct. 960, 30L. Ed. 785, Thompson v. Wooster 84, 114, U.S. 104, 5 S. Ct 788, 29 L. Ed 105, In Re Uranium Antitrust Litigation ND I111, 979, 473F. Supp 382, 617 F 2d 124 8, Danning v. Alvine 572 F 2d1386 see also Moore Federal Practice(55-16)where the effect of the entry of the DEFAULT are clearly defined and well concluded as in all the aforestated cases that were over ruled and ignored by the lower court:

"That when a party is in DEFAULT the defaulting party also loses his standing before the Court and his rights to present evidence on issues other than unliquidated damages or as stated and well

put in Varnes v. Glass Blower Asso. 65 FRDS. 46, "Once a default is entered, a party defendant has no further standing to contest the factual allegation of plaintiffs claim for relief and the only instrument available to him are motions under Federal Rules of Civil Procedure 55b or 60b. As stated in and by Judge Metsgert in Transworld v. Hughes, ADNY38 FRD 499 Supra,"it would usher a new era in the dynamics of litigation if a party could suffer a default judgment to be entered against it and then GO ABOUT IT'S BUSINESS AS IF THE JUDGMENT DID NOT EXIST and though despite the opportunity to comply with the orders of this Court and to defend on the merits which had to be ignored, the slate is wiped clean and a new day has dawned. To state the preposition is to expose the folly of it".

The lower courts abused its discretion and the established cases by not granting appellants leave to ammend their complaint, without showing any cause for the DENIAL. SEE APP. Page 45

The lower Court stayed the case, pending the results of the case in the State Appellate Court system, that recently vacated the final judgment of the State Court case, the action from which the action now at bar stems. In order to frustrate and deter,Defendants dictatorially(and in the only manner that the defendants of this aciton would prevail at the State Appellate system) (that being, the Clerk of the lower Court was also a defendant in this action) said clerk willfully provoked misaction of not transfering the record to the State Appellate Court.Appellate having met all

hurdles of procedure, to this misaction, Appellant sought leave to ammend their complaint for further alledged that the only reason that he had not prevailed at the State Court system level was a result of the defendant's further acts of not transfering the reocrd to the Appellate Court to further protect the bad faith and misaction. As such a set of facts that warranted the granting of leave, clearly and convincingly existed. If, in fact, said amended had been allowed to be advanced, it would have all defences of defendants frustrated and the truth and merits prevailed!!! The lower court silently overuled standing precedent, specifically, Foman v. Davis 83 S. Ct 227, Zenth Radio Corp. v. Hazeltine Research Inc. 91 S. Ct. 795, Conley v. Givson 78 S. Ct. 99, U.S. v. Neighborhood Develop-

ment Corporation v. Advisory Council on Historical Preservation 632 F 2d 21, Madgj-Pour v. Georigana Community Hospiral Inc.,(CA 11th 1984) 724 F 2d 901. In all of said cases, the rule of the law is that amendment must be freely granted and that the court must have valid grounds in denying the request to amend the complaint. The granting of the amendmendments would have greatly altered the course of the case and would have allowed the Appelant Petitioner an opportunity to have establishecd his case fully and completely as is designed in our present system of law.

In the granting of attorney fees on behalf of defendant Corbin, against Plaintiff J.A. Muina, the lower court have silently ruled that nonlitigant parties can be awarded attorneys fees, even if they did not contest each

other. The court did not allow any litigation between these parties. This being a Civil Rights Action, the lower court could not award attorneys fees where its disposition of the case hinged on a statutory immunity given to Sheriff Murphy, without reaching the merits that said Sheriffs department acted as such as a result of racial bias, in fact there is no discretion to have awarded such fees this court has shockingly awarded attorneys fees in support of Mr. Corbin, against plaintiff J.A. Muina to participate in the case. As such, the decision of the lower court is in violation of established precedents on this issue, see Scheriff v. Beck 452 F. Supp. 1254, Hughes v. Rowe 101 S. Ct. 173 (where it was well stated "that attorneys fees may be awarded only if the action is meritless in the sense that it is ground-

less or without foundation".)

The lower court erred in supporting the awards of attorneys fees against Plaintiff/Petitioner DR. MUINA, when the record clearly showed that he had justification for having filed the instant Civil Right suit.

The lower courts entered a judgement against Defendant, DR. MUINA, when he was domiciled more than two-thousand (2,000) miles away in another state and unable to attend an oral deposition, rendering it impossible for DR. MUINA to defend himself/or the merits of the case to ever be heard. Clearly denying him "due process of law". Furthermore, the Circuit Judge DENIED the Defendant, DR. MUINA, the opportunity(right) to see any of the medical charts and records of teh Plaintiff MITTIE HOOD, who sued him for malpractice.SEE APP Pb .14

Judge Larry Smith (14th Judicial Circuit) refused to disqualify himself, based on a statute that was later ruled UNCONSTITUTIONAL by the Supreme Court of Florida, when he and the Defendant/Petitioner DR. MUINA, knew he (Larry Smith) was prejudiced against DR. MUINA, thereby again depriving DR. MUINA of his constitutional rights and "due process of law".

The dismissal of defendant Archer on the pretense that as a result of the plaintiff petitioners failure to succeed in an action in the lower court(solely due to the malicious prejudice of the lower court- easily discerned by anyone reviewing the actions) as such the same was dismissed. The Petitioner Dr. Muina filed suit in the Federal Court due to the rank and ever present prejudice of

carrued out against him in the 14th Judicial Court, from the onset of the original case filed against him(Dr. Muina). This prejudice against Dr. Muina was predominately enforced by Judge Larry Smith (event throughout the record). At this point (in the District Court) Judge Stafford entered a stay of proceedings until the the lower court had been completely finished. However, Judge M. Paul reopend the case on the basis of an affidavit entered by defendant's et al. Notwithstanding, during the last hearing, it was brought to the Judge's attention that the issues had not been settled(and the stay should continue in force), Judge Maurice Paul finished with the case clearly confirming prejudice against Dr. Muina, again denying him his constitutional rights and "due process of law". The lower court is in controversy with : See Smith v.

Smith 578 F. 1373, Baker v. McCollan 99 S Ct. 2689, Ryland v. Shapiro 708 F 2d 9, AFLCIO v. Scott 103 S. Ct. 3352. As such the actions of the lower court are abusive and in contorversy with said decisions. In fact, the lower District Court had repeatedly DENIED such defense when it had ruled against said Summary Judgement.

Judge Larry Smith(14th Judicial Cir) knowing it was impossible for Defendant to appear in Florida for the trial date, continued with the trial without the Defendant being present. The Defendant was never allowed a list of witnesses or a a transcript of the trial(even to date). Defendant never knew the names of the witnesses, jury, or evidence that may have been presented against him. The lower courts DENIED HIM DISCOVERY thru out the entire proceedings. Thereby making it impossible to ever defend himself!

CONCLUSION

These first generation Cuban-Americans request that this Court, in protection of their basic minority and human rights, (in the case of their children, a double minority of Cuban, Polish-Jew - Americans) grant them justice in keeping with the mainstream of American law. This writer loves the Constitution of this great United States of America and truly thanks God that we can live in a country where we can be protected against state action such as the one in the instant case. And we can find remedy for the preservation of the spirit and freedom of mankind. Long live America, its' constitution and sense of fair play and justice. Cases of obvious omission caused by an overtaxed Federal Appellate system, where errors such as the present one can go uncorrected, must be reviewed and corrected by this

high court of the land. In a case where attorneys fees are awarded against a non-combative party, who is not allowed to litigate the propositus of the omission, the omission becomes crystal clear. The lower court in fact by virtue of a clerical mistake, over-sight or omission, seeing that in fact the appellant Plaintiff had in fact responded to the Defendant's Corbin Bill of Admission, and on the basis of that mistake, judgement for summary judgement was inprovidently entered.

Thus Petitioners pray that this court so moved by justice, corrects this miscarriage and mistake of the same and grant the prayer for Petition for a Writ of Certiorari in correcting the mistake.

soli Deo gloria

Respectfully and Prayerfully

Submitted,

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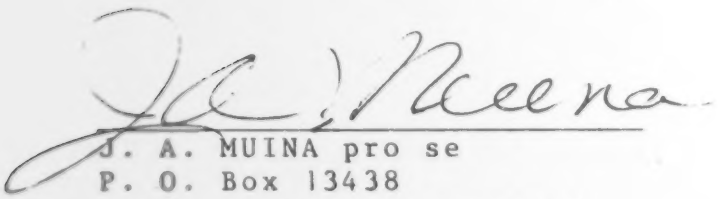

J. A. MUINA pro se
P. O. Box 13438
Mexico Beach, Fla. 32410

CERTIFICATE OF SERVICE

This is to certify that a copy of all the foregoing has been duly mailed to all parties of record by way of pre-paid U.S. First Class Mail this 31st day of March, 1987.

ANTONIO MUINA, M.D.

1. Ed Booth 324 E. Virginia Tallahassee Florida 32301

2. Marc Tapps 822 N. Monroe Tallahassee Florida 32301

3. Jim Smith Suite 1502 The Capitol Tallahassee, Florida 32301

4. Bill Corbin 305 Fanin Ave. Blountstown, Florida 32424

5. Julius Parker Box 669 Tallahassee Florida 32301

APPENDIX

Exhibit "A"

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 85-3077

Non-Argument Calendar

D.C. Docket No. 79-253

ANTONIO MUINA, M.D.,
Plaintiff-Appellant

versus

ED ARCHER, et al
Defendants-Appellees.

ANTONIO MUINA, M.D.,
J.A.MUINA, Plaintiffs-Appellants

versus

ED ARCHER, et al
Defendants-Appellees.

Appeals from the United States District Court for the Northern District of Florida

---

Before FAY, JOHNSON, and CLARK, Circuit Judges.

JUDGEMENT

These causes came on to be heard on the transcript of the record from the

United States District Court for the Northern District of Florida, and were taken under submission by the Court upon the record and briefs on file, pursuant to Circuit Rule 23;

ON CONSIDERATION WHEREOF, it is now here ordered and adjudged by this court that the judgements of the said District Court in these causes be and the same are hereby AFFIRMED;

It is further ordered that Plaintifs appellants pay to defendants-appellees, the costs on appeal to be taxed by the Clerk of this Court.

Entered: April 3,1986

For the Court: Spencer Mercer,Clerk

By:_____
Deputy Clerk

ISSUED AS MANDATE: June 17, 1986

PERMANENT
DO NOT
PUBLISH

Exhibit "B" App.3

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

NO. 85- 3077

Non-Argument Calendar

ANTONIO MUINA, M.D.,
Plaintiff-Appellant

versus

ED ARCHER, et al
Defendants-Appellees

MO. 85-3291

None-Argument Calendar

ANTONIO MUINA, M.D.,
J.A. MUINA,
Plaintiffs-Appellants

versus

ED ARCHER, et al.,
Defendants -Appellees.

Appeals from the United States District Court for the Northern District of Florida

---

(April 3, 1986)

BEFORE FAY, JOHNSON and CLARK, Circuit Judges.

PER CURIAM:

The judgments appealed are affirmed based upon and for the reasons set forth in the Orders of the District Court entered under dates of May 5, 1980, June 14, 1984, November 30, 1984, and March 12, 1985, which we find fully supported by the record.

AFFIRMED.

App. 5

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT, IN AND FOR BAY COUNTY FLORIDA

MITTIE JEAN AND FRANK HOOD

Plaintiffs

vs.

ANTONIO MUINA, M.D.

Defendant.

MOTION FOR VACATE DEPOSITION

NOW COMES the Defendant, ANTONIO MUINA, M.D., and says: in compliance with Judge Smith's ORDER, to give ten days notice, that it is impossible for the Defendant to appear for the Deposition at 2:00 p.m. on the 17th day of October, 1975 in Blountstown, Florida. This being due to the fact that the Defendant is unable financially to make such a trip at this time. However, in the cause of justice, the Defendant is hopeful to be able to make a trip to Florida within the next two or three months. At such time, the

Defendant is very willing to contact the attorney for the Plaintiffs, Bill Corbin, and arrange for a time for a Deposition suitable for all parties involved. And at such time, the Defendant request the right to examine the Plaintiff, Mittie Jean Hood in an effort to see what impairment the Plaintiff does in fact suffer related to this cause of action.

Dated this 6th day of October, 1975.

ANTONIO MUINA, M.D.
PO Box 307
Fairview, Mt. 59221

I HEREBY CERTIFY that a copy of the foregoing was mailed to the above named Attorney for the Plaintiffs, Bill A. Corbin, 305 Fannin Avenue, Blountstown, Fla. 32424 on the aformentioned date.

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT, IN AND FOR BAY COUNTY FLORIDA

MITTIE JEAN HOOD and
FRANK HOOD

Plaintiffs,

vs. CASE NO.75-279

ANTONIO MUINA, M.D.

Defendant.

ORDER

THIS CAUSE came on to be heard before me on January 28, 1976 upon the Plaintiffs Motion to Enter Sanction Against the Defendant for his failure to comply with this Court's ORDER dated September 4, 1975; Plaintiff's counsel being personally present before the Court and there being no appearance for Defendant; the Court having considered same and the argument of counsel, the Court finds as follows:

1. The Defendant failed to appear for his oral depositions dated for June 2, 1975 and October 17, 1975; the Defendant failed to show good cause why he should not appear for the said deposition and he also failed to obtain a court order relieving him of the requirement to appear for the said depositions; the Court has considered the Defendant's objections to being required to appear for his oral deposition within the state of Florida in view of the obvious expense in traveling from the state of Montana to the state of Florida; that the Court is agreeable for the defendant to only answer written interrogatories at the present time, but for the reason that the cause of action acrued in Bay County, Florida, the Court is of the opinion that the Plaintiffs are entitled to have the

Defendant personally appear for his oral deposition prior to the trial date that the Plaintiffs are entitled to recover reasonalbe attorney fees and costs expended pursuant to the two depositions for which the Defendant failed to appear or show cause why he should not do so. It is therefore

ORDERED as follows:

1. That the Plaintiffs Motions for Sanctions against the Defendant is hereby denied in as far as the prayer therein is inconsistent with this order.

2. That the Defendant shall duly answer all written interrogatories propounded to by the Plaintiffs until the trial of this cause.

3. That the Defendant shall pay directly to the Plaintiffs attorney, Bill A. Corbin, 305 Fanin Avenue, Blountstown Florida 32424, the sum of One Hundred

Fifty and No/100 ($150.00) Dollars as attorneys fees for the services rendered by and pursuant to the Defendant's failure to appear at the said depositions and failure to comply with this Court's Order dated September 4, 1975 and the further sum of thirty and no/100 ($30.00) Dollars as Court Reporter's fees for the two said set depositions, the total being One Hundred Eighty and No/100 ($180.00) Dollars and the same shall be paid on or before March 15, 1976.

4. That the Defendant sahll appear at the Plaintiffs attorney's office or any other designated place, for the taking of his oral deposition no later than thirty (30) days prior to the scheduled trial of this cause.

5. That the tentative trial date of this cause is set for June 21, 1976,

at 9:00 a.m. in the Bay County Courthouse Panama City, Florida.

6. That upon the Defendant's failure to comply with any of the provisions of this Order, this Court shall strike all of the Defendant's pleadings.

DONE AND ORDERED in Chanbers in the Bay County Courthouse, Panama City Florida this 9th day of February, 1976

Larry Smith
Circuit Judge

Copies Furnished to:
Bill A. Corbin
305 Fannin Avenue
Blountstown, Fla

Antonio Muina, M.D.
Post Office Box 309
Fairview, Montana

App. 12

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT, IN AND FOR BAY CONTY FLORIDA

MITTIE JEAN HOOD and
FRANK HOOD

Plaintiffs,

vs. ASSIGNMENT OF ERROR

ANTONIO MUINA, M.D.

Defendant.

---

1. Motion by Defendant for protective Order, dated the 10th day of May 1976.

2. Motion for Continuance dated the 28th day May, 1976.

3. Court Order dated 9th day of February, 1976.

4. Court Order, dated June 4th, 1976, that Defendant did not receive until August 24th 1976 in which case he immediately filed for Appeal but repeat-

edly the clerk maliciously failed to enter the Notice of Appeal until on or about September 27th, 1976.

Defendant asks that this assignment of Error bew carried out as prescribed by Florida law.

ANTONIO MUINA, M.D.
Defendant

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the foregoing has been duly serv ed by mail to all parties this 7th day of Oct., 1976.

ANTONIO MUINA, MD.
Defendant

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT, IN AND FOR BAY COUNTY

MITTIE JEAN HOOD
and FRANK HOOD

Plaintiff

vs.

ANTONIO MUINA, M.D.

Defendant.

PLAINTIFFS REQUEST For MEDICAL RECORD FROM BAY MEMEORIAL and LISENBY HOSPITAL

COMES NOW the Defendant, Dr. Antonio Muina, and moves to this Court as follows herein:

1. That in order to assist his defense the Defendant needs all of the Plaintiffs, Mittie Jean Hood, medical records released to him from the above named hospital.

WHEREFORE, the Defendant asks that this Honorable Court grant him the above-stated motion.

ANTONIO MUINA, M.D.
Defendant

App. 15

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been duly served upon all other parties invovlved herein at their addresses this 30th day of May 1977.

Dr. Antonio Muina
Defendant

N THE CIRCUIT COURT, FOURTEENTH JUDICIAL
IRCUIT OF THE STATE OF FLORIDA, IN AND
FOR BAY COUNTY

ITTIE JEAN HOOD and
RANK HOOD,
Plaintiffs.

S. CASE NO. 75-279

NTONIO MUINA, M.D.
Defendant.

ORDER

ORDERED AND ADJUDGED:

1. The Defendant's motion for continuance of trial, filed June 2, 1977, is DENIED. The defendant's motion to set aside order dated June 4, 1976, filed June 2, 1977, is DENIED. The Defendant's motion to dismiss for lack of jurisdiction, filed April 5, 1977, is DENIED. The Defendant's motion for disqualification of Judge Larry Smith and for change of venue, filed April 5, 1977, is DENIED. The Defnedant's motion for sum-

mary judgment, filed September 17, 1976, is DENIED. The Defendant's motion to enter sanctions and compel discovery, filed September 17, 1976, is DENIED. The Defendant's motion for Court to provide a complete Court order, filed August 16 1976 is DENIED. The Defendant's motion to comply with Court order, filed May 19, 1976, is DENIED. The Defendant's motion for contempt of Court for Plaintiffs and dismiss, filed April 1, 1976 is DENIED. The Defendant's motion for injunction against Court order, filed Mar. 18, 1976, is DENIED. The Defendant's motion to appoint Clerk of the Court as Defendant's agent, filed Mar. 18, 1976 is DENIED.

4. A list of the names and addresses of all witnesses intended to be called at trial shall be served on opposing

5. All special, requested jury instructions shall be prepared and served on the opposing party or his counsel at the commencement of the trial of this cause and filed with the Clerk at that time.

DONE AND ORDERED in Chanbers in Bay County, Florida this 3rd day of June, 1977.

Larry G. Smoith
Circuit Judge

96

App. 19

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT, IN AND FOR BAY COUNTY FLORIDA

MITTIE JEAN HOOD and
FRANK HOOD

Plaintiffs,

vs. ASSIGNMENT OF ERROR

ANTONIO MUINA, M.D. ,

Defendant.

THE DEFENDANT, Dr. Antonio Muina, respectfully requests that the Clerk of the Fourteenth Judicial Circuit Court in and for Bay County forward the ORDER dated June 3, 1977 to the Clerk of the First District Court of Appeal, Tallahassee, Florida, as prescribed by the Florida Appellate Rules.

Antonio Muina, M.D.
Defendant

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the foregoing has been duly served upon all other parties invovlved herein this 14th day of June, 1977 at their address.

ANTONIO MUINA , M.D.

Defendant

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT, IN AND FOR BAY COUNTY FLORIDA

ANTONIO MUINA, M D.

Petitioner 75-279

vs.

JUDGE LARRY SMITH OF PETITION FOR PROHIBITION

Respondent

COMES NOW the Petitioner Dr. Antonio Muina and moves to this Court and states as follows herein:

1. That on June 17, 1977 Petitioner filed a Petition for Prohibition in the Court accompanied with a check made as prescribed, seeking relief in this Court of Appeal.

2. The Petition for Prohibition was put in STAY pending the return of the filing fee which was returned by this Court. Enclosed is the same instrument as it is a valid and good

instrument.

3. This case illegally proceed to TRIAL against the values of the Statutes of the State of Florida and exposed the Petitioner to the great abuse of discrimination adn willful malice and prejudism of Judge Larry Smith, that Petitioner sought relief via Petition for Prohibition.

WHEREFORE, Petitioner in the interest of justice moves that his Petition be given immediate relief and this Court remand this action to comply with the values of Statue 38:10 of the State of Florida.

ANTONKO MUINA, M.D.
Petitioner
PO Box 307
Fairview, Mt. 59221

CERTIFICATE OF SERVICE:
THIS IS TO CERTIFY that a copy of the foregoing was served upon all parties by US Mail this 27th day of June, 1977.
Antonio Muina MD Peti.

IN THE FOURTEENTH JUDICIAL CIRCUIT COURT
OF THE STATE OF FLORIDA IN AND FOR BAY
COUNTY, FLORIDA

MITTIE JEAN HOOD and
FRANK HOOD
Plaintiffs

Bk. 632
Pg. 918

vs.

75-279

ANTONIO MUINA, M.D.
Defendant

NOTICE OF
APPEAL

Dr. Antonio Muina, takes and enters his interlocutory Appeal to the First Court of Appeal of the STate of Florida to review the order of the Fourteenth Judicial Circuit Court for Bay County bearing the date of June 3,1977. The nature of the order are DENIAL of Summary Judgement, DENIAL of Motion for Discovery, DENIAL of Motion for the Disqualification of Judge Larry Smith, DENIAL of Motion to Enter Sanctions and compel discovery, DENIAL of Motion to

provide a complete Order, DENIAL of Motion for Protective Order. All parties are called upon to take Notice of the entry of this Appeal.

ANTONIO MUINA, M.D
Defendant

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a oopy of the foregoing has been duly served upon all parties involved herein this 14th day of June, 1977 at their addresses.

ANTONIO MUINA, M.D.
Defendant

IN THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, STATE OF FLORIDA,

ANTONIO MUINA, M.D.

Petitioner

vs.

MITTIE JEAN HOOD and
FRANK HOOD,

Respondents.

PETITION FOR REHEARING

COMES NOW the Petitioner, Dr. Antonio Muina and moves to this Court as follows herein:

1. That the action on the part of Judge Larry Smith were clearly arbitrary, unreasonable and unjust, illegal and when tested on the light of these principles, this will amount to an abuse of such discretion and must be set aside Ellard v. Godwin(Fla) 77 So. 2d 617.

2. The entertaining and denial by Judge Larry Smith of the Defendant Appellant's Motion and Affidavit calling

for his disqualification. Judge Larry Smith had no legal discretion to consider the truth or falsity of the Affidavit Fla. State Ex rel. Brown v. Dewell 179 So 695 131 Fla., Dickenson v. Park 140 So. 459, 104 Fla. 577, Suarez v. State, 115 So 519 95 Fla. and in general litigants are entitled to have a hearing and determination by an impartial tribunal free from bias, prejudice and interest, Fla. State Ex rel. Davis v. Parks, 194 So. 613, 141 Fla. 516 and in this case Judge Larry Smith violates the provisions of Fla. Statute 38:10 forbiding a judge to further proceed into the case after a litigant motioned with afidavit callihng for his disqualification. This act on the part of Judge Larry Smith is an act of abuse of dis-

WHEREFORE, this Petitioner asks this Honorable Court that in the interst of justice this Court of Appeal granc him this Petition and acts to correct the miscarriage of justice that has been perpertrated by the lower Court.

ANTONIO MUINA, M.D.

Petitioner

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy] of the foregoing has been duly served on all parties invovled herein at their address this 20th day of Sept. 1977.

ANTONIO MUINA, M.D
Petitioner
PO Box 307
Fairview, Mt. 59221

FILED SEPT. 21, 1977 8:30 AM

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT IN AND FOR BAY COUNTY FLORIDA

MITTIE JEAN HOOD and
FRANK HOOD

Plaintiffs

vs.

ANTONIO MUINA, M.D.

Defendant

CASE NO
75-279

MOTION TO TRANSFER RECORD TO APPEALS COURT AND REQUEST TO PRODUCE THE TRANSCRIPT OF 6-22-77 TRIAL

COMES NOW the undersigned Defendant/Appellant and requests that this Court act as follows:

1. To transfer to the First District Court of Appeals of the State of Florida the following record. All instrument file by this litigant after Oct. 3, 1979.

2. To order the court reporter who transcribed the 6-20-77 trial to prepare the transcript from said trial.

WHEREFORE: This litigant prays that this court acts as requested in a prompt and orderly fashion in order to comply with the fules of appellate procedure.

Respectfully Submitted,

Dr. A. Muina
PO BOX 1148
Wewahitchka, Fla. 32465

Filed April 10th, 1981

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT IN AND FOR BAY CO. FLA.

MITTIE JEAN HOOD AND
FRANK HOOD,

Plaintiffs

vs.

ANTONIO MUINA, M.D.

Defendant

MOTION FOR COURT TO TRANSFER

RECORD

Plaintiff Defendant hereby requests that this court transfer the entire record of the case above designated 75-279 to the First District Court of Appeals of the State of Florida. By this is meant all depositions, interrogatories and any and all instruments filed in said case.

A. MUINA, M..D.

P. O. Box 1148
Wewahitchka, Fla. 32465

Nov. 21, 1984

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF FLORIDA

PANAMA CITY DIVISION

ANTONIO MUINA, M.D. and
J.A. MUINA

VS. MCA-79-0253

ED ARCHER, et al

Upon praecipe filed by Plaintiffs herein, default is hereby entered against Defendant BILL CORBIN, for failure to appear make claim or file answer within the time prescribed by law.

This 5th day of June, 1980.

MARVIN S. WATTS, CLERK

By _____
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA PANAMA
CITY DIVISION

ANTONIO MUINA, MD. et al,

Plaintiff,

vs. CASE NO.MCA
ED ARCHER et al, 79-0253

Defendant.

MOTION TO SET ASIDE DEFAULT

Defendant Bill Corbin, in proper person, pursuatn to Rule 55(c) and Rule 60(b), Federal Rules of Civil Procedure moves this Court to set aside the Default entered by the Clerk of this Corut against him on June 5, 1980 and in support thereof, says:

4. The Amended Complaint was never personally served on Movant, but was delivered by US Mail.

8. Prior to the entry of the subject Default, Movant had prepared, but not

served, his Answer to both the original Complaint and the Amended Complaint. However, it was an oversight that these documents did not get filed or served. They are concurrently herewith being filed and served.

9. Movant is an attorney at law practicing in Blountstown Florida and has recently had a voluminous amount of work to accumulate in his business, including five Appeals in Florida State Court, as well as other tirals hearings, research and preparation for all these matters, and as a direct result of these, there was inadvertant and excusable neglect of Movant in his failure to be sure the further pleadings of his in this cause were not filed with the Clerk.

DATED this 6th day of June 1980.

Bill A. Corbin

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA, PANAMA CITY DIVISION

ANTONIO MUINA, M.D.
J.A. MUINA

Plaintiffs,

vs. CASE NO. MCA 79-0253

ED ARCHER, et al

Defendants.

SUPPLEMENT TO MOTION TO SET ASIDE DEFAULT

The Defendant, Bill A. Corbin, in proper person, hereby supplements his Motion to Set Aside Default served June 6, 1980, stating that he has consulted an attorney at law to represent him in these preceedgins, and said attorney has agreed to enter his appearance in this case on Defendants behalf and expedi-

tiously filed and serve further defensive pleadings if and when this Court grants Defendant's subject Motion to Set Aside Default. Said attorney at law is Joseph L. Shields, Esq., 522 N. Adams' Street, Tallahassee, Fla. 32301 904-222-9777.

DATED THIS 17th day of June, 1980.

CORBIN LAW OFFICES, PA
305 Fannin Avenue
Blountstown, Fla. 32424
904-674-5424

BY Bill A. Corbin

SUPREME COURT OF FLORIDA

Thursday Nov.4,1982

ANTONIO MUINA, M.D.,
Appellant,

v.

MITTIE AND FRANK HOOD,
Appellees.

CASE NO. 62,431
Dist. Court of Appeal, 1st Dist
NO .MM-416

Upon consideration of the motion to Reinstate, etc. filed in the above cause by appellant,

IT IS ORDERED that said Motion be and the same is hereby denied.

A True Copy

Test:

Sid J. White
Clerk, Supreme Court

By: Tanya Carroll
Deputy Clerk

TC
cc: Hon.Raymond E Rhodes, Clerk, Hon. Harold Bassel (sith copy for Circuit Judge
Antonio Muina, M.D.
Bill Corbin, Esquire

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA PANAMA CITY DIVISION

ANTONIO MUINA, M.D., et al

Plaintiff

vs.

ED ARCHER,et al

CASE NO. MCA 79-0253

Defendants.

ORDER

Before the court are several pending motions filed by the parties. Plaintiffs Antonio Muina and J.A. Muina respond to standing interrogatores and for a determination of their pending motion to' vacate the removal of default against defendant William Corbin. By order dated July 19, 1983, this court dismissed Plaintiff J.A. Muina from this action. Accordingly, this court will consider the mo-

tion to be the motion of Antonio Muina only. The motion for a ten(10) day continuance is GRANTED NUNC PRO TUNC. Plaintiff shall have until August 12, 1983 to answer the standing interrogatories.

Plaintiff's motion to vacate the removal of default against defendant William Corbin is DENIED.

OFFICE OF CLERK
U.S. District Court
North Dist. Fla.
Tallahassee, Fla.
Aug. 2, 1983 5:06 pm

IN THE FOURTEENTH JUDICIAL COURT OF THE STATE OF FLORIDA

MITTIE JEAN HOOD and
FRANK HOOD,

Plaintiffs

vs. CASE NO. 75-279

ANTONIO MUINA, M.D.

Defendant.

ORDER

THIS CAUSE having been presented to Court Wednesday, October 17, 1984, and being heard on Petition for Rehearing, dated February 12, 1981, filed by DEfendant, ANTONIO MUINA, said Petition for Rehearing being directed to the Final Judgement of this Court, dated Feb. 2, 1981, the Defendant, ANTONIO MUINA, having appeared in proper person, without legal representation, and this Court having fully considered said Petition for

Rehearing, and being fully advised, it is therefore,

ORDERED that said Petition for Rehearing as filed by said Defendant, said Petition for Rehearing being dated Feb. 12, 1981,be, and same is hereby DENIED.

DONE AND ORDERED in Chambers in Panama City, Bay County, Florida this 29th day of October, 1984.

PARKER

CIRCUIT JUDGE

COPIES MAIED TO:

DR. ANTONIO MUINA

Post Office Box 1148

Wewahitchka, Fla. 32465

BILL CORBIN, Attorney at Law
305 Fannin
Blountstown, Fla. 32424

App. 41

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA PANAMA CITY DIVISION

ANTONIO MUINA, M.D., J.A. MUINA

Plaintiffs

vs. MCA 79-0253

ED ARCHER et al.

Defendants

AMMENDED COMPLAINT

Plaintiffs restate all paragraphs of their complaint now standing in the ammended complaint to be given the same full forces and effect.

I

That the defendant clerks office of the Fourteenth Judicial Circuit Court in order to frustrate Plaintiff's state appeal and to avoid merits determination against it's person proceeded to misemploy

its office by willfully refusing to transfer instruments to the state Appellate Court with the express purpose of frustrating Plaintiff's right to a given appeal

II

That said action was created with the express purpose of mocking the order of this court and to avoid detrimental consequences and to cover up their misaction to this court. That all such action was taken by the Defendants in furtherance of their racially motivated conspiracy and to deny the Plaintiffs with the "equal and due process application of the law".

III

That Defendant Judge Larry Bodifor refuses to adjudicate pending motions in the State Court that question the validity of a Fla., statute in regards to

the disqualification of judges. That said act is meant to protect the unconstitutionality fo the stae law and to prejudice the Plaintiffs right to have a hearing conducted by a fair and impartial judge. That all said aciton is meant and calculated to deprive this Plaintiff with his right to "due Process of law", and to in fact maqintain this litigant to a lower level or inferior class citizen or person and to further protect the acts that occured as described in paragraph 2 and 3 of the present complaint.

AS SUCH PLAINTIFF PRAYS FOR THE ADDITIONAL RELIEF:

1. To issue a mandatory injunction commanding Defendant Larry Bodiford to pass upon the merits fo the Plaintiff's standing motion,

2. To issue a mandatory injunction commanding the Defendant Clerk to obey all law requiring him to act and as a result of his failure to surrender before this Court al rights and remedies he might have as a result of his action that fail to transfer the record.

3. The further sum in excess of $1,000,000.00 exclusive of interest and cost aganst said Defendant Clerk and conspiring Defendants.

4. Any and all further relief and trial by jury in all actions so triable by by jury.

ANTONIO MUINA, M.D.

Nov. 8th, 1983

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA PANAMA CITY DIVISION

ANTONIO MUINA, M.D., J.A. MUINA

Plaintiffs

vs. 79-0253

ED ARCHER et al.

DEFENDANTS

MOTION FOR LEAVE TO AMMEND COMPLAINT PURSUANT TO RULE 15 OF THE FEDERAL RULES OF CIV IL PROCEDURE AND RULE 14 OF THE LOCAL RULES OF COURT.

COMES NOW the undersigned Plaintiffs and move this court for leave to ammend complaint on the facts as follows herein:

1. That since the last action was undertaken in the instant case now at bar a number of events have transpired that are of the upmost importance and relation to this case

2. That said events have in fact occured since the filing of this complaint and as a direct result of the instant complaint.

3. That as such Plaintiffs seek to ammend the case to include this new cause of action that are directly connected to the presetn complaint.

MEMORANDUM IN SUPPORT

Leave to amend the complaint must be freely given by the court but in the instant case the same is demanded of the same by the circumstances that have developed after this court issued an order to stay proceeding pending the determination of issues by a State Appellate Court, that resulted in said State Appellate Court Defendants to misemploy their office in their quest to protect their persons from the misaction of their

deeds. As such and in keeping with the spirit of the law of the land in this particular point of alw this court should grant this litigant his quest for leave to amend the complaint, see, Alexander v. Pacific Marinetime Asso. 9th Giv., 1963, 314 F 2d 690, Breoer v. Northern California Bowling Propietors 316 F 2d 787 Foman v. Davis 83 S. Ct. 227, Conley v. Gibson 78 S. Ct 99 United States v. Houghman 81 S. Ct. 13.

Respectfully Submiteed

Dr. A. Muina, P.O. Box
1148 Wewahitchka, Fla.
(904) 639-5480
32465

Nov. 8th, 1983

IN THE UNITED STATES DISTRICT COURT FOR
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

ANTONIO MUINA, M.D., AND
J.A. MUINA

Plaintiffs

vs. MCA 79-0253

ED ARCHER et al,

Defendants

RESPONSE TO DEFENDANT CORBIN BILL OF AD_
MISSION AND MOTION TO COMPEL DISCOVERY

---

1. Plaintiffs deny all allegations made in Defendant Corbin's Bill of Admissions in tottal and complete. Plaintiffs further object to said instrument being that it was not served upon their persons it was served in an untimely manner and at a time that said Defendant was in DEFAULT and as such had no right to file any such instrument until the lifting of the same.

2. That Plaintiffs have a number of timely served and filed instruments of discovery that defendants have wholly failed to respond without a cause, that Plaintiffs are in need of such response to meet upcoming events in the case, further more plaintiffs verbally requested that Defendants respond to such instruments and they denied acting as such, to compel discovery, and being that said defendant Archer, Smith and Collins have not allowed without cause the completion of discovery by their failure to respond to timely and properly served interrogatories and other discovery devices, Plaintiffs are entitled to an order of this court compelling the same.

J.A.Muina

Dr. A. Muina
P.O. Drawer 1148
Wewahitchka,Fl.32465
(904)639-5480

Nov. 8th, 1983

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA, PANAMA CITY DIVISION

ANTONIO MUINA, M.D. and
J.A. MUINA,

Plaintiffs

vs.

CASE NO.
MCA 79-0253

ED ARCHER et al,

Defendants

PLAINTIFF'S AFFIDAVIT OPPOSING SUMMARY JUDGMENT

---

1. After being duly sworn the undersigned comes and states as follows:

a) That defendant Bill Corbin and Defendant Archer filed the state action 75-279 in retaliation for Plaintiff's having filed Mariana U.S. District action 75-1 and 75-8.

b) That said defendants filed said state action without any grounds other than to protect and retaliate for said

federal action.

c) That at all times said defendants were perfectly aware that their medical allegation of negligence wereunfounded and without possible justification.

d) That said defendants at all times were perfectly aware that Plaintiff Dr.Muina did all medical tests or requested that said patient undergo the same and that at no time was she refused any medical treatment, as now testified by the Plaintiff's of said state action 75-279 at the last deposition of said litigant, in this case (transcripts are now being prepared).

e) That said defendants were instead attempting to protect attrocious and inhumane behavior against the now Plaintiffs and family while residing withintheir political domain and in order to

protect their political position and that of the Defendants of Civil Action 75-1 and 75-8 (Fed. Court Northern Dist. Fla.) and in order to take offensive to cover up said past violations and the consequenses of their exposure.

f) That said defendant firm of Corbin and Archer had already attempted one other act of retaliation for the Plaintiff having filed said action 75-1 and 75-8 said prior action was also filed without any legal justification and that said defendant attorneys at all times knew that they had no legal justification for having filed said action.

Sworn to and Subscribed before me this 6th day of June, 1984.

ANTONIO MUINA, M.D.
PO Box 1148 Wewahitchka
Florida, 32465

THIS IS TO CERTIFY that a copy of the foregoing was duly mailed to all parties by U.S.Mail this 6 day of June 1984.

J.A. Muina 558 & 559

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

ANTONIO MUINA, M.D.
and J.A. MUINA
Plaintiffs

vs. MCA 79-0253

ED ARCHER et al,

Defendant

MOTION AND MEMORANDUM TO OBTAIN LEAVE TO AMMEND THE COMPLAINT

Plaintiff moves to ammend the complaint as gollows herein:

1. That since the last action was undertaken in the instant case noe at bar a number of events have transpired that are of the upmost importance to the case now at bar.

2. That said events have in fact occured since the filing cf this complaint and as direct result of the complaint now standing before the court. 585

3. That the need to ammend arises as a result of further competing to frustrate prior order of this court and this litigant rights before the state court.

4. That the behavior of the defendants that give rise to the need to ammend the complaint is per se of the upmost contemptous to this court prior orders and in fact create further rights to this litigant as further acts of federal rights violations by the defendants of this action

Leave to ammend the complaint must be freely given by the court but in the instant case the same is demanded of the same by the circumstances that hve developed after this court issued an order to stay proceeding pending the determination of issues by a state court of appeals, the defendants in order to avoid merit reaching determination by the state appellate

court misemployed their office in a quest to silence their misaction by using the office they control in a manner that would have frustrated the spirit of the stay order of this court and the rights of this litigant to an appeal review.

As such this court in keeping with the law of the land in this particular point of law, this court must grant this litigant his quest for leave to ammend the complaint see Alexander v. Pacific Maritime Asso's 314 F 2d 69 9th Circuit. Brier v. Northern California Bowling Propietors 316 F 2d 787 Foman v. Davis 83 s Ct 227, Conley v. Gibson 78 S Ct 99, United State v. Houghman 81 S Ct 13.

Respectfully Submitted

Dr. A. Muina P. O. Box 1148 Wewahitchka, F132465

Filed June 18, 1994 4:38 p.m.

App. 56

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NORTHERN FLORIDA
Panama City Division

ANTONIO MUINA, M.D.
and J.A . MUINA

Plaintiffs

vs. MCA 79-0253

ED ARCHER et al.,

Defendants

AMMENDED COMPLAINT

I

Plaintiffs come and restate paragraphs one through all of his original complaint in this the ammended complaint as if it was expressly restated herein.

II

That the defendant clerk office with express purpoe of benefiting all the joint and competing defendants, failed to transfer the record to the appellate court of the state of Florida as required

by Fla. law.

III

That this defendant clerks or those acting under his instruction acted as such to frustrate this court orders that awaited adjudication pending state court determination and in order to avoid a merit determination that would have been detrimental to the fellow defendants person.

IV

That said clerk office was given proper instruction and all state law requirement by the plaintiff that demanded that plaintiffs met all procedural rules that must have resulted in the transfering of the record to the appellate court.

V

That the action of the defendant clerk was made with the express pur-

pose of denying the Plaintiff his rights to an appeal review that was statutory and Constitutionally guaranteed to him.

VI

That the action of the clerk and those acting at his command was carried out in a conspiracy to benefit the remaining defendants of this action and to mock the prior order of this court, and to purposelly frustrate this litigants rights to "due process of law and equal protection under the law".

VII PRAYER FOR RELIEF

1. An order of this court finding the defendant clerk in contempt of cour for failing to act within the spirit of the stay order of this court.

2. Plaintiffs demand monetary compensation in excess of $10,000.00 against the defendant clerk office as nominal compensatory and punitives damages.

3. That the defendant lose all remedy at law said action by the clerk may have given them.

4. That this court grants any and all further relief.

Resepctfully Submitted

Dr. A. Muina P.O Box 1148
Wewahitchka, Fla. 32465
904-639- 5480

THIS IS TO CERTIFY that a copy of the foregoing ammeneded complaint and memorandum and motion to leave to ammend complaint has been duly mailed to all parties of record by way of U.S. Mail this 15th day of June 1984

588
589

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTIRCT OF FLORIDA PANAMA CITY DIVISION

ANTONIO MUINA, M.D.
Plaintiff

vs. CASE NO
MCA 79-253MMP

ED ARCHER, et al
Defendant.

ORDER

Plaintiff's motion to compel defendant Mittie Jean Hood and Bill Corbin to further answer deposition questions is DENIED.

Plaintiff's motions to vacate June 14, 1984 Order (doc 199, 208, & 209) are DENIED.

Plaintiff's motion to withdraw admissions(doc 202) is GRANTED. Plaintiff need not respond to defendant Archer's requests for admissions.

Plaintiff's motion to compel Bill Corbin in complete deposition(doc 205) is DENIED.

Defendant Ed Archer's motion to reopen discovery(doc 206) is DENIED.

DONE AND ORDERED this 29th day of August, 1984.

Maurice M. Paul

United States Dist. Judge

IN THE SUPREME COURT OF THE STATE OF FLORIDA

Lower Court App. Bk. No. Bd-423

Lower Court Dk.No.

75-279

ANTONIO MUINA, M.D.

Defendant/Appellant

vs.

MITTIE AND FRANK HOOD

Plaintiffs/Appellees

JURISDICTIONAL BRIEF

APPELLANT, DR. MUINA, via telegram communication filed in this court his Notice of Appeals. The jurisdiction of this Court to said Notice is found upon the fact that the lower appellate court, that being the First District Court of Appeals issued a ruling that an appeal from an interlocutory order that stemed from a Final Order, See Fla. Rule App.

Pro. 9.130(5) and as such dismissed the Appeal when the record was not transfered to the Appellate Court without the Appellate Court ordering the same. Appellant then motioned at the lower court level that the rehearing to the Final Judgement be adjudicated and upon the DENIAL of the same, proceeded to file a notice of appeal in the First District of said judgement. The District Court of Appeals DENIED the same on the pretense that said appeal had already been adjudicated!!! Appellants appeal this decision to this Supreme Court of the State of Florida. See Fla. Rule App. Proc. 9.030. As such said misapplication of the Rules of Civil Procedure has served to in fact deny this litigant an Appeal posture before the Appellate Court as a result of the lower court clerk refusal to transfer the record. As such Appel-

lant prays that this court so act in accepting jurisdiction so that eventually it can correct this misapprehension of the Appellate procedure by said Appellate Court apnel. Attached are the instrument for the understanding of this case.

Respectfully,

A. MUINA, M.D.
PO Box 1148
Wewahitchka, Fla. 32465

This is to certify that a copy of the foregoing was duly mailed to all parties of record by way of the prepaid U.S. Mail this 4th day of October, 1985.

A. Muina, M.D.

**OFFICIAL RECORDS
BK 1097 PG 1976

FILE # 86-40596
Bay Co. Florida

IN THE FOURTEENTH JUDICIAL CIRCUIT COURT
OF THE STATE OF FLORIDA

MITTIE AND FRANK HOOD

Plaintiffs

vs. CASE: 75-279

ANTONIO MUINA, M.D.

Defendnat.

NOW COMES the Defendant, ANTONIO MUINA, M.D., and Appeals the Order of this Court dated August 27, 1986, to the First District Court of Appeals.

ANTONIO MUINA, M.D.
PO Drawer 711
Wewahitchka, Fla. 32465
(904) 639-5480

This is to certify that a copy of the foregoing has been duly mailed to all parties of record via U.S. Mail this 26th day of September, 1986

ANTONIO MUINA, M.D.